



STATE PUBLIC CHARTER SCHOOL AUTHORITY

**1749 North Stewart Street Suite 40
Carson City, Nevada 89706-2543
(775) 687 - 9174 · Fax: (775) 687 - 9113**

BRIEFING MEMORANDUM

TO: SPCSA Board
FROM: Patrick Gavin
SUBJECT: Staff Recommendation re: High Stakes Decisions
DATE: August 23, 2015

Overview of Charter School Accountability and High Stakes Decisions

The legislature passed several bills this session impacting charter school accountability, including SB509 and SB460.

SB509 provides that the Authority must establish policies policy and regulation related to charter school renewal and the evaluation of the performance of charter schools. It also provides that the Department may adopt additional regulations related to academic performance criteria which would include charter schools. As neither the Department nor the State Board has yet adopted regulations or policy in this area, it is important to note that subsequent action by those bodies may impact the criteria adopted by the SPCSA. Schools should be advised that the Authority will be obligated to consider any such additional criteria and may need to supplement or modify the criteria adopted pursuant to this recommendation based on subsequent action by other bodies.

SB460 provides for an accountability framework for alternative schools. This statute provides for the state board to adopt a different methodology to evaluate the performance of schools with a specific mission to serve particular categories of at-risk students. For such schools, the state board may approve accountability measurements beyond those currently reflected in the statewide system of accountability for public schools (NSPF/Star System). While the bill does not impact the responsibility of authorizers to adopt a separate performance framework for charter schools above and beyond the NSPF/Star System, it is likely that any change in the state accountability framework for alternative schools will impact the source data required to generate a charter school performance framework. As neither the Department nor the State Board has yet adopted regulations or policy in this area, it is important to note that subsequent action by those bodies may impact the criteria adopted by the SPCSA. Schools should be advised that the Authority will be obligated to consider any such additional criteria and may need to supplement or modify the criteria adopted pursuant to this recommendation based on subsequent action by other bodies.

Authorizer Actions: Definitions

SB509 and SB460 provide for additional accountability actions by authorizers due to academic, organizational, or financial performance issues:

Non-Renewal: The authorizer decision to end a written charter or charter contract at the end of a six year charter term.¹

Revocation/Termination: The revocation of a written charter or the termination of a charter contract results in the closure of a school and the dissolution of the legal entity.

Restart: a school which has its written charter revoked or its charter contract terminated may be restarted by a sponsor. This permits students to re-enroll in a new school which has no legal ties to the previous school. Burdensome contracts and leases cease to exist.²

Reconstitution: The authorizer-imposed restructuring of the governance of a charter school. This may include either the replacement of all or almost all of a board's membership with a new board members or the replacement of the full governing board with the governing board of another school which would operate that school as an additional campus or campuses. Contracts and leases typically continue, except for those which are required to end based on statute or regulation or those a governing board elects to terminate in accordance with the terms. If the sponsor determines there are multiple high quality operators which are qualified and interested in operating the school, parents may be asked to cast an advisory vote to recommend their preferred operator.

Criteria for Authorizer Action:

While the authorizer actions described above represent a continuum of high stakes decisions regarding the ongoing operation of a charter school, they can best be classified first as a clear “go/no go” decision. *Does the school merit ongoing operation? Or is some significant change necessary?*

	<i>Go Decision: Allow On-Going Operation At High Stakes Review/Allow Renewal</i>	<i>No Go Decision: Require Non-Renewal, Revocation, Reconstitution, or Restart</i>
Academic Criteria	1. School's elementary, middle, and high school programs are all at the 2 Star Level or Above on Regular Nevada School Performance Framework (NSPF) for at more than 2 of the past 5 years (since 2011-12 and excluding 2014-15) OR School is Classified as Eligible for TBD Alternative NSPF by SBOE and is determined to be in Good Standing (definition TBD) ³ AND	1. School operates an elementary, middle, or high school program that is 1 Star on Regular NSPF for any 3 out of past 5 years (since 2011-12 and excluding 2014-15) OR School is Classified as Eligible for TBD Alternative NSPF by SBOE and is not determined to be in Good Standing (definition TBD) ⁵ OR

¹ To clarify how a school under a written charter is to continue to operate or cease to operate at the end of a six year term, staff will collaborate with the Department to develop regulations align the processes for such schools with those which operate under a charter contract. For current purposes, an authorizer decision not to “renew” decision for a school under a written contract is recommended to be classified as a revocation of the school's written charter.

² Created in SB460, restart is a new policy which is subject to regulation by NDE to provide, among other things, for students from the closed school to have first preference to enroll in a restarted school.

³ Per SB460, the SBOE is authorized to identify schools eligible for an alternative Nevada School Performance Framework which meet certain criteria set forth in statute and regulation. The rulemaking process for that has

	<i>Go Decision: Allow On-Going Operation At High Stakes Review/Allow Renewal</i>	<i>No Go Decision: Require Non-Renewal, Revocation, Reconstitution, or Restart</i>
	<p>2. School Does Not operate an elementary, middle, or high school program that is a Focus or Priority School Under Federally-Approved Definition AND</p> <p>3. None of school's elementary, middle, or high school program Meet Any Other Low-Performing Definition in Statute or Regulation (Graduation Rate, Level of Achievement, etc).⁴ AND</p> <p>4. School Has Not received a Notice of Concern or Notice of Breach for Academic Reasons in Past 2 Years Prior to Renewal or High Stakes Review (Under regular SPCSA Academic Performance Framework OR TBD Alternative Academic Performance Framework) OR School Has Received A Notice of Concern or A Notice of Breach in Past Year Under Either Authority Academic Framework AND Issue Has Been Resolved to Satisfaction of SPCSA Board</p>	<p>2. School operates an elementary, middle, or high school program that is a Focus or Priority School Under Federally-Approved Definition OR</p> <p>3. School operates an elementary, middle, or high school program that Meets Any Other Low-Performing Definition in Statute or Regulation (Graduation Rate, Level of Achievement, etc).⁶ OR</p> <p>4. School Has received a Notice of Concern or Notice of Breach for Academic Reasons in Past 2 Years Prior to Renewal or High Stakes Review (Under regular SPCSA Academic Performance Framework OR to-TBD Authority Alternative Academic Performance Framework AND Issue Has Been Not Been Resolved to Satisfaction of SPCSA Board</p>
Financial Criteria	<p>1. School Has Not Received A Notice of Concern or A Notice of Breach in Past 2 Years Under Authority Financial Framework OR</p> <p>2. School Has Received A Notice of Concern or A Notice of Breach in Past 2 Years Prior to Renewal or High Stakes Review Under Authority Financial Framework AND Issue Has Been Resolved to Satisfaction of SPCSA Board</p>	<p>1. School Has Received A Notice of Concern or a Notice of Breach in Past 2 Years Prior to Renewal or High Stakes Review Under Authority Financial Framework AND Issue Remains Unresolved to Satisfaction of SPCSA Board OR</p> <p>2. School Has Received A Notice of Concern in Past 2 Years Prior to Renewal or High Stakes Review Under Authority Financial Framework AND Breach Remains Unresolved to Satisfaction of SPCSA Board OR</p> <p>3. School Has Received a Notice of Closure in Past Year Under SPCSA Financial Framework AND Issue Remains Unresolved to Satisfaction of SPCSA Board</p>
Organizational Criteria	<p>1. School Has Not Received A Notice of Concern or Notice of Breach in Past Two Years Under Authority Organizational Framework OR</p> <p>2. School Has Received A Notice of Concern or A Notice of Breach in Past 2 Years Prior to Renewal or High Stakes Review Under Authority Organizational Framework AND Issue Has Been Resolved to Satisfaction of SPCSA Board</p>	<p>1. School Has Received A Notice of Breach in Past 2 Years Prior to Renewal or High Stakes Review Under Authority Organizational Framework AND Issue Remains Unresolved to Satisfaction of SPCSA Board OR</p> <p>2. School Has Received A Notice of Concern in Past 2 Years Prior to</p>

begun. Renewal or high-stakes review procedures for schools that may seek eligibility will be postponed until Q1 2016 to provide for adoption of SBOE regulations.

⁵ See footnote 1.

⁴ Both SB92 and SB509 expand the definition of low-performing school in Nevada. The rulemaking process for that has begun.

⁶ See footnote 2.

	<i>Go Decision: Allow On-Going Operation At High Stakes Review/Allow Renewal</i>	<i>No Go Decision: Require Non-Renewal, Revocation, Reconstitution, or Restart</i>
		<p>Renewal or High Stakes Review Under Authority Organizational Framework <i>AND</i> Issue Remains Unresolved to Satisfaction of SPCSA Board <i>OR</i></p> <p>3. School Has Received a Notice of Closure in Past Year Under SPCSA Financial Framework <i>AND</i> Issue Remains Unresolved to Satisfaction of SPCSA Board <i>OR</i></p> <p>4. School Has Received a Notice of Concern or a Notice Breach on organizational matter that the either NDE, the SBODE, or the SPCSA Board determines, either jointly or successively or in their sole and individual discretion, calls into question the integrity of any data point in the state or Authority Academic Framework, including without limit a violation of any statute, regulation, or policy related to student admission, enrollment, or graduation</p>

Policy Proposals

Within some statutory limits, the SPCSA Board has and should retain broad discretion regarding whether to reconstitute or to revoke/terminate a school and then subsequently restart it or not. To inform the SPCSA Board of all appropriate options, ensure that the process is effective at improving the overall performance of Authority schools and that all SPCSA students have access to a high quality public school choice, as defined by state law and the SPCSA performance framework, staff will propose the following policies and processes:

Adopt Policy Codifying SB509 Low-Performing Schools: Pursuant to SB509 (and aligned language in SB92), schools are low-performing if they do not meet any one of a number of academic performance thresholds defined in law and regulation. To ensure alignment with SB509, staff recommends that schools which currently fail to meet any academic performance threshold set forth in statute or regulation be subject to a Notice of Closure under the Authority intervention process and subject to reconstitution or revocation/termination followed by possible restart as early as the 2015-16 academic year.

Contractual Disclosure and Reconstitution Limitation Policy: All schools which are scheduled for renewal or have received a Notice of Concern, Breach, or Closure will be required to submit a list of all contracts in excess of \$25,000. The submission will identify the contracting parties, the reason for the contract (including if it is a contract with an EMO), the annual amount, the expiration date of the contract, and any exit or termination clause. Staff recommends that any school which the Authority determines has a management contract which does not comply with the SB509 termination requirement in the event of reconstitution be ineligible for reconstitution.

Policy Providing for Notice of Closure to Trigger Reconstitution RFP Process: To maximize the opportunity for current Nevada schools and out-of-state CMOs to provide a seamless transition for students and families, staff recommends that the SPCSA Board authorize staff to begin a Reconstitution RFP process immediately following a staff determination that a school must be served with a Notice of Closure pursuant to law, regulation, or policy as well as immediately following any Board action to exercise its own authority to serve a school with a Notice of Closure absent staff action, e.g. in the event that the Board votes to revoke or terminate as a result of a high stakes review identified in a charter contract. In the event that the policy preventing reconstitution in the case of non-compliant management agreement ultimately precludes reconstitution, SPCSA staff will work with respondents to the RFP to determine if restart under a new lease in the same building or a nearby facility is a viable option which it can recommend to the SPCSA Board.

Policy Providing for Rescission of a Vote to Revoke or Terminate in Favor of Reconstitution with a The Board of a New School or a CMO and for Rescission of a Vote to Reconstitute in Favor of a Vote to Revoke or Terminate: In the event that the SPCSA Board determines that a viable, high quality operator is able to take over a school before it ceases operation or in the event that a previously identified operator is unable to follow through on a reconstitution, the SPCSA Board must reserve the right to rescind its previous vote and replace it with the alternate high stakes intervention.

Policy Providing for Expedited Renewal: While significant attention must be paid to those schools in the portfolio which are failing to meet academic, financial, or organizational targets, we also have a number of schools which are performing well in all three domains. The performance framework, approved in 2013, references the opportunity for high achieving schools to request expedited renewal. The resource constraints of the SPCSA have limited the Authority's ability to plan for such an eventuality, but it is important to note that there are multiple schools which currently meet or exceed all the criteria identified in the "Go Decision" column above which will be up for renewal over the next several years. These include Somerset, Oasis, and Nevada State High School. The latter, which is up for renewal this year, has already made inquiries about the possibility of submitting an application for and receiving renewal by the end of the calendar year. Staff strongly recommends that the SPCSA adopt a policy permitting such an expedited renewal review and approval for the highest achieving schools in the portfolio beginning in the 2015-16 academic year.

Additional Federal Considerations

Federal policy identifies the mechanisms we define in statute as reconstitution and restart as school improvement methods which are particularly appropriate to charter school authorizers and to portfolio LEAs like the SPCSA, as they do not require the level of day-to-day authorizer/LEA support that the more common turnaround and transformation models more commonly used by school districts. The latter two models assume, for example, that the LEA is the direct employer of school staff and that it has the capacity and authority to terminate or reassign staff. This is also consistent with the types of improvement interventions outlined in SB92. The state's NCLB waiver also recognizes the distinctions between these models.

Under our current statute and agency mandate and resourcing, the SPCSA's authority to support the more district-oriented interventions is constrained to a degree which may make low-performing SPCSA charter schools less competitive applicants for federal school improvement grants and other discretionary federal dollars allocated to low-performing schools. Both federal

law and the NCLB waiver assume a robust, district-driven improvement process. Staff are continuing to work with NDE to address the tensions between our statutory and appropriation constraints and the broader set of federal expectations for LEAs. In the long term, however, it is likely that this tension will only be resolved by a statutory change which makes SPCSA charter schools their own LEAs, much like the charter schools to be authorized by the Achievement School District. In the interim, however, it is important to note that the new statutory powers granted by SB509 and other legislation may also provide the SPCSA with the opportunity to access these competitive dollars for the purpose of supporting the reconstitution and restart of schools in the portfolio, including the engagement of external experts to evaluate school performance and make appropriate recommendations regarding the criteria for approving RFP respondents. Consequently, staff request SPCSA Board approval to directly compete for such federal grants in the future.